

Explanatory Statement

Civil Aviation Safety Regulations 1998

CASA EX73/23 — Registration of Exempt Aircraft (Operators, Prospective Owners and Initial Owners) Instrument 2023

Purpose

The main purpose of *CASA EX73/23 — Registration of Exempt Aircraft (Operators, Prospective Owners and Initial Owners) Instrument 2023* (the **instrument**) is to enable prospective owners of a particular kind of aeroplane (defined in the instrument as an **exempt aircraft**) to apply to register the exempt aircraft without complying with particular regulatory requirements related to making the application.

The instrument would also exempt operators and prospective owners, in relation to an exempt aircraft after it has been registered, from the *Civil Aviation Regulations 1988* (**CAR**) and the *Civil Aviation Safety Regulations 1998* (**CASR**) more generally, other than the provisions of CAR and CASR mentioned in the following sections of the instrument:

- (a) for prospective owners — section 5;
- (b) for operators — subsection 6(1).

Those exemptions are required because once an exempt aircraft is registered in reliance on the exemption in subsection 4(1) of the instrument, operators and prospective owners will be unable to comply with various regulatory requirements that would normally apply to an Australian-registered aircraft.

However, those exemptions operate in relation to prospective owners and operators only as long as necessary for those exemptions to be effective — until the manufacturer of an exempt aircraft transfers its ownership to an initial owner. The mechanisms that limit the operation of those exemptions in that way are described in more detail under the heading ‘Content of instrument’.

The instrument contains conditions and a direction imposed by the Civil Aviation Safety Authority (**CASA**) in the interests of the safety of air navigation.

Legislation

Section 98 of the *Civil Aviation Act 1988* (the **Act**) empowers the Governor-General to make regulations for the Act and in the interests of the safety of air navigation. Relevantly, the Governor-General has made CASR and CAR.

CASR — power to grant exemptions (Subpart 11.F)

Unless otherwise stated, each provision mentioned in this section is a provision of CASR.

Subpart 11.F provides for the granting of exemptions from particular provisions of, relevantly, CAR and CASR. Division 11.F.1 relates to the grant of standard exemptions and includes regulations 11.160 and 11.170. Division 11.F.3 relates to exemptions generally and includes regulations 11.205, 11.210, 11.225 and 11.230.

Under subregulation 11.160(1), for subsection 98(5A) of the Act, CASA may, by instrument, grant an exemption from compliance with a provision of CAR and CASR in relation to a matter mentioned in that subsection.

Under subregulation 11.160(2), CASA may grant an exemption to a person, or to a class of persons, and may specify the class by reference to membership of a specified body or any other characteristic.

Under subregulation 11.160(3), CASA may grant an exemption under Division 11.F.1 either on application by a person or on its own initiative.

Under subregulation 11.170(3), in deciding whether to grant an exemption, CASA must regard as paramount the preservation of at least an acceptable level of aviation safety. CASA has regard to the same test when deciding whether to grant an exemption, under Division 11.F.1, on its own initiative.

Under subregulation 11.205(1), CASA may impose on an exemption under Subpart 11.F any condition necessary in the interests of the safety of air navigation. Under regulation 11.210, failure to comply with a condition of an exemption is a strict liability offence.

Under regulation 11.225, an exemption must be published on the internet. Under subregulation 11.230(1), the maximum duration of an exemption is 3 years.

CASR — power to issue directions (Subpart 11.G)

Each provision mentioned in this section is a provision of CASR.

Subpart 11.G provides for CASA to issue directions in relation to matters affecting the safety of air navigation. Under paragraph 11.245(1)(a), CASA may, by instrument, issue a direction about any matter affecting the safe navigation and operation of aircraft.

Subregulation 11.245(2) provides that CASA may issue such a direction only if CASA is satisfied that it is necessary to do so in the interests of the safety of air navigation, only if the direction is not inconsistent with the Act, and only for the purposes of CASA's functions.

Under regulation 11.250, a direction ceases to be in force on the day specified in the direction or, if no day is specified, 1 year after the day it commences. Under regulation 11.255, it is a strict liability offence for a person to contravene a direction under regulation 11.245 that is applicable to the person.

Regulations 42.970, 42.975 and 42.1045

Under subregulation 42.970(1), the person responsible for continuing airworthiness for an aircraft may apply to CASA for approval of a proposed maintenance program for the aircraft. Under subregulation 42.970(2), the person responsible for continuing airworthiness for an aircraft must apply to CASA for approval of a proposed maintenance program for the aircraft if a circumstance mentioned in paragraph 42.970(2)(a), (b) or (c) exists.

Regulation 42.975 requires that an application to CASA for approval of a proposed maintenance program must:

- (a) be in writing; and

- (b) include a copy of the program; and
- (c) if the program does not comply with particular requirements mentioned in paragraph 42.975(c) — include the technical justification for the non-compliance.

Under regulation 42.1045(1), the person responsible for continuing airworthiness for an aircraft to which regulation 42.155 applies may apply to CASA, in writing, for approval of a proposed reliability program for the aircraft. Under subregulation 42.1045(2), the application must include a copy of the program. Subregulation 42.155(2) sets out the aircraft to which regulation 42.155 applies.

Regulations 47.060 and 47.065 and subregulation 47.080(1)

Subregulation 47.060(1) provides that an application to register an unregistered aircraft may be made by the owner or a person who is acting on behalf of, and at the direction or request of, the owner. Subregulations 47.060(2) to (4) set out requirements for an application for registration including, relevantly in paragraph (3)(b), that it must include the information set out in regulation 47.065. The information mentioned in regulation 47.065 includes, relevantly:

- (a) in paragraphs (a) and (b), the name and address of, respectively, the owner of the aircraft and a person making an application for registration on behalf of the owner; and
- (b) in paragraph (aa), if the aircraft is owned by more than 1 person — the name and signature of the owner who is appointed to act on behalf of the owners.

Under subregulation 47.080(1), CASA must register an aircraft if the application for the registration of the aircraft is made in accordance with regulation 47.060.

Subregulation 121.005(1), Part 121 and Subpart 121.Z

Under subregulation 121.005(1), Part 121 (other than Subpart 121.Z) applies to the operation of a multi-engine aeroplane for an Australian air transport operation if either or both of the following apply in relation to the aeroplane:

- (a) it has a maximum operational passenger seat configuration of more than 9;
- (b) it has a maximum take-off weight of more than 8,618 kg.

The note located immediately below subregulation 121.005(1) subregulation 121.005(1) directs the reader, for the additional application of Subpart 121.N, to see regulation 121.470. Under regulation 121.470, Subpart 121.N also applies to the operation of a multi-engine aeroplane if:

- (a) either or both of paragraphs 121.005(1)(a) and (b) apply in relation to the aeroplane; and
- (b) the operator of the aeroplane holds an Australian air transport AOC that authorises the conduct of Part 121 operations; and
- (c) the operation is of a kind specified in the operator's exposition.

Subpart 121.Z (that is expressly excluded from paragraph (a) of the definition of **exempt aircraft** in the instrument) relates to certain single-engine aeroplanes.

The Legislation Act 2003 (the **LA**) and the Act

Paragraph 98(5A)(a) of the Act provides that CASA may issue instruments in relation to matters affecting the safe navigation and operation, or the maintenance, of aircraft.

Additionally, paragraphs 98(5AA)(a) and (b) of the Act provide that an instrument issued under paragraph 98(5A)(a) is a legislative instrument if the instrument is expressed to apply in relation to:

- (a) a class of persons; or
- (b) a class of aircraft.

The instrument:

- (a) is expressed to apply in relation to a class of aircraft, defined in the instrument as ***exempt aircraft***; and
- (b) in relation to an exempt aircraft:
 - (i) exempts 2 classes of persons – prospective owners and operators – from compliance with particular provisions of CAR and CASR; and
 - (ii) directs an additional class of persons – initial owners – to provide particular documents to CASA within a particular time frame.

The instrument is, therefore, a legislative instrument, and is subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA.

Under subsection 14(1) of the LA, a legislative instrument may make provision in relation to matters by applying, adopting or incorporating provisions of an Act or disallowable legislative instrument as in force at a particular time or as in force from time to time. A legislative instrument may also make provision in relation to matters by applying, adopting or incorporating any matter contained in any other instrument or writing as in force at, or before, the time the legislative instrument commences. Under subsection 14(2) of the LA, unless the contrary intention appears, the legislative instrument may not make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time. However, subsection 98(5D) of the Act provides that, despite section 14 of the LA, a legislative instrument made under the Act or the regulations may apply, adopt or incorporate any matter contained in any instrument or other writing as in force or existing from time to time, even if the other instrument or writing does not yet exist when the legislative instrument is made.

As the instrument relates to aviation safety and is made under CASR, the sunset provisions in Part 4 of Chapter 3 of the LA do not apply to the instrument — see item 15 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. However, the instrument will be repealed at the end of 30 June 2026, which will occur before the sunset provisions would have repealed the instrument if they had applied. Any renewal of the instrument will be subject to tabling and disallowance in the Parliament under sections 38 and 42 of the LA. Therefore, the exemption from sunset does not affect parliamentary oversight of the instrument.

Background

Previous instruments of the same kind

Available records indicate that, since 2017, CASA has made 9 instruments of the same kind as the instrument (although one of those 9 instruments repealed a recently made instrument and corrected an oversight). Background information related to some of those instruments has mentioned that not granting the exemptions will result in delayed operational availability of

the related aircraft that will, in turn, have a negative commercial impact on aircraft owners and operators.

Related matters

CASA intends to amend Part 47 of CASR to enable aircraft purchasers to apply for registration before the transfer of the legal title to the purchaser. Given the following information, CASA considers it appropriate to make the instrument to address the situation:

- (a) the related operational delays and negative commercial impact on aircraft owners and operators;
- (b) CASA continues to receive regular applications for related exemptions;
- (c) that the Part 47 equivalent in United States legislation allows aircraft purchasers to apply for registration before the transfer of the legal title to the purchaser.

Overview of instrument

CASA has assessed that the instrument will have no impact on the aviation safety of the related operations of the aircraft the subject of this instrument.

The instrument is intended to enable prospective owners of an exempt aircraft to apply to register the exempt aircraft without complying with particular regulatory requirements related to making the application.

The instrument also intends to exempt prospective owners and operators, in relation to an exempt aircraft after it has been registered, from CAR and CASR more generally, other than the provisions of CAR and CASR mentioned in the following sections of the instrument:

- (a) for prospective owners — section 5;
- (b) for operators — subsection 6(1).

Those exemptions are required because once an exempt aircraft is registered in reliance on the exemption in subsection 4(1) of the instrument, prospective owners and operators will be unable to comply with various regulatory requirements that would normally apply to an Australian-registered aircraft.

However, those exemptions are intended to operate in relation to prospective owners and operators only as long as necessary for those exemptions to be effective — until the manufacturer of an exempt aircraft transfers its ownership to an initial owner.

The instrument also intends to require an initial owner of an exempt aircraft to, within 24 hours of the transfer of its ownership, provide CASA with particular related documents.

Documents incorporated by reference

Paragraph 8(a) of the instrument incorporates by reference the manufacturer's production approval certificate (however described) issued by the national aviation authority of the foreign country in which the aircraft was manufactured, as the certificate exists from time to time. A production approval certificate for an aircraft is:

- (a) issued by the national aviation authority to the manufacturer of the aircraft and is not transferrable; and
- (b) typically composed of two documents — one setting out the approval and conditions the other setting out the limitations (or terms) of the approval; and

- (c) typically of an unlimited duration, subject to compliance with related conditions or requirements (unless the certificate is cancelled, surrendered, suspended, superseded or revoked); and
- (d) a living document that can be revised by the issuing national aviation authority to add or remove aircraft types, kinds of work that the manufacturer may perform, locations at which the work may be performed and other limitations.

The limitations (or terms) of an approval typically limit the work that the manufacturer may carry out, the aircraft types the manufacturer may perform the work on and the locations at which the work is to be carried out.

Production approval certificates issued by:

- (a) the Federal Aviation Administration of the United States of America are currently composed of a Production Certificate and a Production Limitation Record;
- (b) the European Aviation Safety Agency are currently composed of a Production Organisation Approval Certificate and the Terms of Approval.

At the time of making the instrument, the most common manufacturers of exempt aircraft are the following:

- (a) Airbus S.A.S of Blagnac, France (**Airbus**);
- (b) The Boeing Company of Arlington, Virginia, United States of America (**Boeing**);
- (c) Empresa Brasileira de Aeronáutica S.A. of São José dos Campos, São Paulo, Brazil (**Embraer**).

At the time of making the instrument, the following circumstances related to availability of the related production approval certificates exist:

- (a) the production approval certificate issued to Airbus is freely available on the internet at <https://www.airbus.com/sites/g/files/jlcbta136/files/2021-11/Airbus-certificate-EASA-21G-0001.pdf>.
- (b) neither the production approval certificate issued to Boeing nor the production approval certificate issued to Embraer is freely available on the internet.

Despite making significant efforts, CASA cannot reliably obtain copies of the production approval certificates for Boeing and Embraer with a view to making them available to a user of the instrument.

CASA has incorporated the manufacturer's production approval certificate in the instrument because aviation safety requires the operator to ensure that any operation by the manufacturer of an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1) of the instrument (for example, a demonstration flight or a test flight by the manufacturer's crew) is in accordance with the certificate and because there are no freely available documents serving the relevant purpose.

However, as a safeguard, it is standard practice for the national aviation authority that issues a production approval certificate to a manufacturer to be responsible for ensuring that the manufacturer complies with the certificate.

Paragraph 8(b) of the instrument incorporates by reference legislation related to production flight testing, customer demonstration flights and other pre-delivery activities of:

- (a) if the activities mentioned in paragraph 8(b) are carried out in a foreign country in the European Union — the foreign country in which the activities are carried out, as in force from time to time; or
- (b) otherwise — the foreign country in which the aircraft was manufactured, as in force from time to time.

Note 1 below section 8 identifies the most common manufacturers of exempt aircraft at the time of making the instrument. That note also:

- (a) mentions, and provides a link to, the production approval certificate issued to Airbus; and
- (b) explains that the production approval certificates issued to Boeing and Embraer are not freely available to view or download and CASA cannot reliably obtain copies of those certificates with a view to making them available to a user of the instrument.

Note 2 below section 8 mentions, and provides links to, examples of relevant legislation of the foreign countries mentioned in paragraph 8(b):

- (a) for countries in the European Union — *Commission Regulation (EU) No 748/2012*; and
- (b) for the United States of America — FARs, *Part 21—Certification Procedures for Products and Articles*.

Commission Regulation (EU) No 748/2012 is freely available on the internet and can be accessed at: <https://www.easa.europa.eu/en/document-library/regulations/consolidated-version-commission-regulation-eu-no-7482012>.

FARs, *Part 21—Certification Procedures for Products and Articles* is freely available on the internet and can be accessed at: <https://www.ecfr.gov/current/title-14/chapter-I/subchapter-C/part-21>.

Content of instrument

Section 1 names the instrument.

Section 2 sets out the duration of the instrument.

The note located immediately below section 2 confirms that the direction in section 9 of the instrument ceases to be in force on the date that the instrument is repealed.

Section 3 contains definitions.

The note located immediately below the heading of section 3 is a signpost note, intended to assist users of the instrument to identify particular defined terms located in the Act or the regulations.

The need for the distinction between subparagraphs (b)(i) and (ii) of the definition of ***exempt aircraft*** — and the need for a consequential distinction between subparagraphs 8(b)(i) and (ii) — arose from information provided during consultation. CASA was informed that a particular manufacturer of an exempt aircraft may carry out production flight testing,

customer demonstration flights and other pre-delivery activities in countries in the European Union other than the country in which the aircraft was manufactured.

The note located immediately below the definition of ***exempt aircraft*** is a signpost note, intended to assist users of the instrument to identify the characteristics of a turbine-engine aeroplane to which Part 121 (other than Subpart 121.Z) of CASR applies.

The definitions of ***prospective owner*** and ***initial owner***, respectively, cover the following consecutive stages of the process that results in the manufacturer of an exempt aircraft transferring its ownership to the initial owner:

- (a) purchase, but not payment in full, issue of a bill of sale or transfer of ownership;
- (b) purchase, payment in full, issue of a bill of sale and transfer of ownership.

The note located immediately below the definition of ***prospective owner*** is intended to assist users of the instrument by clarifying that an operator may be the same person as, or a different person from, a prospective owner and an initial owner.

Subsection 4(1) of the instrument exempts a prospective owner of an exempt aircraft that has not been registered in reliance on the exemption in that subsection from compliance with the following provisions of CASR, to the extent (if any) mentioned in paragraphs 4(1)(a) to (d):

- (a) subregulation 47.060(1);
- (b) subregulations 47.060(2) to (4);
- (c) regulation 47.065;
- (d) subregulation 47.080(1).

Notes 1 and 2 located immediately below subsection 4(1) are intended to assist users of the instrument by, respectively:

- (a) describing the intended effect of that subsection; and
- (b) providing signposts to, and describing the relevant content of, the provisions of CASR mentioned in that subsection.

Subsection 4(2) provides that the exemption in subsection 4(1) is subject to the conditions mentioned in section 7.

Section 5 exempts a prospective owner of an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1) from compliance with CAR and CASR, other than Part 11 of CASR. However, that broad exemption operates in relation to each prospective owner only as long as necessary for the exemption to be effective. The definition of ***prospective owner*** limits the operation of the exemption to the period that begins when the prospective owner has purchased an exempt aircraft but does not include payment in full, issue of a bill of sale or transfer of ownership. Those events are, however, included in the definition of ***initial owner***.

Subsection 6(1) exempts an operator of an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1) from compliance with CAR and CASR, other than:

- (a) Part 11 of CASR;
- (b) in relation to applying to CASA for approval of a proposed maintenance program for the aircraft — regulations 42.970 and 42.975 of CASR;

- (c) in relation to applying to CASA for approval of a proposed reliability program for the aircraft — regulation 42.1045 of CASR.

Notes 1 and 2 below subsection 6(1) are intended to assist users of the instrument by signposting, and describing the relevant content of, the provisions of CAR and CASR mentioned in that subsection.

Subsection 6(2) provides that the exemption in subsection 6(1) is subject to the conditions mentioned in section 8.

Subsection 6(3) provides that section 6 ceases to apply to the operator at the time the manufacturer transfers ownership of the exempt aircraft to its initial owner.

Section 7 contains conditions on the exemption for prospective owners of an exempt aircraft that has not been registered in reliance on the exemption in subsection 4(1).

Subsection 7(1) provides that a prospective owner must ensure that an application for registration of an exempt aircraft made in reliance on the exemption in subsection 4(1) includes the documents mentioned in paragraphs 7(1)(a) and (b).

Subsection 7(2) requires a prospective owner to notify CASA, in writing, within 24 hours of becoming aware that they will not apply for registration of an exempt aircraft in reliance on the exemption in subsection 4(1) for any reason.

Subsection 7(3) provides that if the ownership of an exempt aircraft that is registered in reliance on the exemption in subsection 4(1) is not transferred to an initial owner before the repeal of the instrument, the registration of the aircraft is taken to have lapsed.

Subsection 7(4) requires a prospective owner of an exempt aircraft, to notify CASA, in writing, within 24 hours of becoming aware that ownership of the exempt aircraft will be transferred to a person other than the prospective owner during the intervening period.

Section 8 contains a condition on the exemption for operators of registered exempt aircraft in subsection 6(1). That condition requires operators to ensure that an exempt aircraft that has been registered in reliance on the exemption in subsection 4(1) is operated:

- (a) by its manufacturer in accordance with the manufacturer's production approval certificate (however described) issued by the national aviation authority of the foreign country in which the aircraft was manufactured, as the certificate exists from time to time; and
- (b) for production flight testing, customer demonstration flights and other pre-delivery activities:
 - (i) if the activities mentioned in paragraph 8(b) are carried out in a foreign country in the European Union — in accordance with the related legislation of the foreign country in which the activities are carried out, as in force from time to time; or
 - (ii) otherwise — in accordance with the related legislation of the foreign country in which the aircraft was manufactured, as in force from time to time.

Note 2 below section 8 mentions as examples, and provides links to, the relevant legislation of the foreign countries in which exempt aircraft are most commonly manufactured:

- (a) for countries in the European Union — *Commission Regulation (EU) No 748/2012*; and

- (b) for the United States of America — FARs, *Part 21—Certification Procedures for Products and Articles*.

Note 3 below section 8 is intended to assist prospective owners and operators with forward planning of related operations by identifying procedures that must be completed in accordance with particular Australian legislation mentioned in the note.

Section 9 of the instrument is a direction under regulation 11.245 of CASR. Section 9 provides that directs an initial owner must, within 24 hours after the manufacturer transfers ownership of an exempt aircraft that is registered in reliance on the exemption in subsection 4(1), provide CASA with the documents mentioned in paragraphs 9(a) and (b).

The note located immediately below section 9 is intended to assist users of the instrument by clarifying that an initial owner may be the same person as, or a different person from, an operator.

Consultation

On 6 June 2023, CASA provided a consultation draft of the instrument to the major Australian domestic airlines. CASA asked for comments on the consultation draft to be provided by 20 June 2023.

Although most of those who received the consultation draft indicated that they had no issues with its content, a major Australian domestic airline provided information that a particular manufacturer of an exempt aircraft may carry out production flight testing, customer demonstration flights and other pre-delivery activities in countries in the European Union other than the country in which the aircraft was manufactured. Therefore, the airline requested some changes to the scope of the definition of ***exempt aircraft*** and some related consequential changes to paragraph (b) of the condition in section 8 of the instrument. After considering the request and any related impact on aviation safety, CASA made related changes to that definition and paragraph (b) of that condition.

Sector risk, economic and cost impact

Subsection 9A(1) of the Act states that, in exercising its powers and performing its functions, CASA must regard the safety of air navigation as the most important consideration. Subsection 9A(3) of the Act states that, subject to subsection (1), in developing and promulgating aviation safety standards under paragraph 9(1)(c), CASA must:

- (a) consider the economic and cost impact on individuals, businesses and the community of the standards; and
- (b) take into account the differing risks associated with different industry sectors.

The cost impact of a standard refers to the direct cost (in the sense of price or expense) which a standard would cause individuals, businesses and the community to incur. The economic impact of a standard refers to the impact a standard would have on the production, distribution and use of wealth across the economy, at the level of the individual, relevant businesses in the aviation sector, and the community more broadly. The economic impact of a standard could also include the general financial impact of that standard on different industry sectors.

By enabling prospective owners to apply for registration of exempt aircraft before the transfer of legal title, the instrument will reduce the related operational delays and negative commercial impact on the owners and operators of exempt aircraft.

Impact on categories of operations

The instrument is likely to have a beneficial effect on operations involving exempt aircraft because, by enabling prospective owners to apply for registration of exempt aircraft before the transfer of legal title, it will reduce the related operational delays and negative commercial impact.

Impact on regional and remote communities

The instrument may have a beneficial effect on regional and remote communities because, if the owners or operators of exempt aircraft use those aircraft to provide a service to regional or remote communities, it may reduce the operational delays in servicing those communities.

Office of Impact Analysis (OIA)

An Impact Analysis (*IA*) is not required in this case, as the exemption is covered by a standing agreement between CASA and OIA under which an IA is not required for exemptions (OBPR id: 14507).

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights at Attachment 1 has been prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Making and commencement

The instrument has been made by the Director of Aviation Safety, on behalf of CASA, in accordance with subsection 73(2) of the Act.

The instrument commences on the day after it is registered and is repealed at the end of 30 June 2026.

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the
Human Rights (Parliamentary Scrutiny) Act 2011*

CASA EX73/23 — Registration of Exempt Aircraft (Operators, Prospective Owners and Initial Owners) Instrument 2023

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The legislative instrument enables prospective owners of a particular kind of aeroplane (defined in the instrument as an ***exempt aircraft***) to apply to register the exempt aircraft without complying with particular regulatory requirements related to making the application.

The instrument also exempts prospective owners and operators, in relation to an exempt aircraft after it has been registered, from the *Civil Aviation Regulations 1988 (CAR)* and the *Civil Aviation Safety Regulations 1998 (CASR)* more generally, other than the provisions of CAR and CASR mentioned in the following sections of the instrument:

- (a) for prospective owners — section 5;
- (b) for operators — subsection 6(1).

Those exemptions are required because once an exempt aircraft is registered in reliance on the exemption in subsection 4(1) of the instrument, operators and prospective owners will be unable to comply with various regulatory requirements that would normally apply to an Australian-registered aircraft.

However, the following provisions of the legislative instrument mean that those exemptions operate in relation to prospective owners and operators only as long as necessary for those exemptions to be effective — until the manufacturer of an exempt aircraft transfers its ownership to an initial owner:

- (a) the definition of ***prospective owner***, that limits the operation of the exemption to the period that begins when the prospective owner has purchased an exempt aircraft but does not include payment in full, issue of a bill of sale or transfer of ownership. Those events are, however, included in the definition of ***initial owner***; and
- (b) subsection 6(3), that provides that section 6 ceases to apply to the operator at the time the manufacturer transfers ownership of the exempt aircraft to its initial owner.

The exemptions are issued subject to conditions.

The instrument also issues a direction to an initial owner of an exempt aircraft.

The conditions and directions are imposed by the Civil Aviation Safety Authority in the interest of the safety of air navigation.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

Civil Aviation Safety Authority